

**Notice of Allowability**

Application No.

09/804,667

Examiner

Jocelyn Greimel

Applicant(s)

DELLINGER ET AL.

Art Unit

3693

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 8/30/07.
2. ☒ The allowed claim(s) is/are 17-30 and 32-36.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |   |
|--|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 5. <input type="checkbox"/> Notice of Informal Patent Application                     |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date _____    | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                   |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance  |
|  | 9. <input type="checkbox"/> Other _____   |

### **DETAILED ACTION**

This communication is in response to Applicant's Information Disclosure Statement filed 13 June 2007 and the Response to Rule 105 Request filed 30 August 2007.

#### ***Status of Claims***

Claims 17-30 and 32-36 are currently pending. Claim 17 is an independent claim.

#### ***Allowable Subject Matter***

Claims 17-30 and 32-36 are allowed, subject to an Examiner's amendment described below. An Examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee. Authorization for this Examiner's amendment was given in by Bob Gillenwater (see Examiner Interview Summary Record of 19 July 2007).

#### ***Examiner's Amendment***

Please amend claims 17 and 23-25:

Claim 17 (currently amended): A computerized method of administering an annuity product having a withdrawal feature and a guarantee comprising the steps of:

a) establishing an annuity account having an owner and a unitized account value the investment performance of which accrues to the benefit of the account owner and from which withdrawals can be made;

b) inputting data relating to the annuity account, including data relating to at least one of the account owner, the account value, and a specified withdrawal rate for a given withdrawal frequency;

c) allowing the account owner to make withdrawals from the annuity account;  
wherein if the amount of the withdrawal is less than or equal to the specified withdrawal rate there is a guarantee that, even if the entire account value is exhausted before the end of a specified time period, amounts up to the specified withdrawal rate will continue to be paid for at least said specified time period; wherein said specified time period is determined when the account is established to be at least one of a lifetime period, a period of a certain number of months or years, and a period required for cumulative withdrawals to at least equal a specified percentage of one of the account value as of a specified date and a highest account value achieved as of a specified date following establishment of the annuity account; and  
if the amount of the withdrawal is greater than the specified withdrawal rate, up to and including the entire account value, there is no guarantee that amounts up to the specified withdrawal rate will continue to be paid for that specified time period.

23. (currently amended) The method of Claim 17, wherein a maximum amount of said withdrawal permitted under the guarantee for the given withdrawal frequency is determined by multiplying said specified withdrawal rate and the account value as of a specified date.

24. (currently amended) The method of Claim 17, wherein a maximum amount of said withdrawals permitted under the guarantee for the given withdrawal frequency is determined by multiplying said specified withdrawal rate and a highest account value achieved as of specified date following establishment of the annuity account.

25. (previously presented) The method of Claim 17, wherein a maximum amount of said withdrawals permitted under the guarantee is periodically re-determined.

*Reasons for Allowance*

1. The closest prior art that the Examiner has been able to locate is Golden (US Patent No. 5,933,815) in view of Mody (Methods of Loan Guarantee, worldbank.com, hereinafter Mody).
2. Golden relates to "a computer system and computerized method for implementing and administering a program to provide a person with guaranteed lifetime income based on at least an initial contribution of assets..." The system and method disclosed by Golden provides a "partial withdrawal" feature which provides liquidity in the client's assets. Figure 1 of Golden describes the "Income Manager System" of Golden which is the hardware and software used to manage and administer the client account. The client account is an asset, which can be an IRA that is held by a bank or other entity in a financial institution. The client account is split into two parts for investment into two different types of accounts of an insurance company. One portion is used to purchase a series of guaranteed investment vehicles, such as a series of serially maturing Guaranteed Interest Rate Options (GIROs). The other portion of the account is the general account which is used to purchase a traditional life contingent annuity (LCA). The GIROs provide an annual payment for a set period of years and after that period the LCA provides the continued payments for the life of the annuitant. The GIROs have a market value which is determinable prior to maturity. A client can cash in one or more of the GIROs at their market value prior to the maturity date and this constitutes a partial withdrawal. Thereafter, the annual payments guaranteed by the remaining GIROs are readjusted to reflect the partial withdrawal made by the annuitant. Mody describes the use of a charge for a guarantee.
3. Applicant's proposed invention relates to a non-traditional annuity product. It is a method of administering an annuity product which has a withdrawal feature and a guarantee.

There is a guaranteed source of income for a specified time period (which can be a lifetime period) but also there is a liquidity in the assets that is maintained. The insurer may permit withdrawals from an active (unannuitized) deferred annuity contract. Under this program, if these withdrawals do not exceed a predetermined percentage established by the insurer for a given withdrawal frequency, the insurer guarantees that withdrawals under this program will last for the period prescribed, including a lifetime period. Thus, the contract owner receives (as desired) income payments in the form of the periodic withdrawals, while maintaining access to the account balance for unscheduled withdrawals. If total withdrawals do not exceed a predetermined percentage of the account balance over a predetermined period, (termed the "specified withdrawal rate" in the claims), the insurer guarantees that amounts up to the predetermined percentage will continue to be paid for the specified period, including a lifetime period, even if the underlying assets are exhausted before the end of the specified period. This guarantee feature provides the owner with the insurance against longevity (i.e., outliving the available assets) of a traditional annuity product, while the withdrawal feature allows the owner to retain the liquidity normally sacrificed when purchasing an annuity. The guarantee remains in place as long as withdrawals do not exceed the predetermined percentage (i.e., the specified withdrawal rate). However, in an emergency or if otherwise desired, the account owner can access a higher percentage of the account value, in which case the guarantee may be terminated or modified.

4. While there are similarities between the Golden and Mody and the proposed invention, there are clear patentable distinctions. Specifically, Golden has a measure of liquidity in the two-thirds of the asset that is used to purchase the GIRO. The liquidity decreases each year and

may disappear entirely at some point (see Figure 3). The withdrawal feature of Applicant's invention allows the client to retain the liquidity normally sacrificed when purchasing an annuity.

5. Secondly, in Golden, if all or substantially all of the GIROs are cashed in prior to maturity, then the annual income payments will cease or decrease to nominal levels until the LCA portion commences. In Applicant's proposed invention, as long as the withdrawals do not exceed a predetermined percentage established by the insurer for a given withdrawal frequency, the insurer guarantees that withdrawals will continue for the prescribed period.

6. Additionally, in Golden, there exists a probability that the client will not live long enough to collect any of the distributions under the LCA. And in this scenario, the one-third of the asset that used to purchase the LCA is lost. In Applicant's proposed invention, in certain embodiments, the risk of asset loss in the event of premature death, which exists with a traditional LCA, is reduced or eliminated.

7. The "charges" or "guarantees" described by Mody are different in nature and type than the charges and guarantees referred to the present application. Specifically, Mody is concerned with loan guarantees, sometimes provided by governments for policy reasons. In the context of an annuity, and more specifically in the context of features for annuities which have not previously been offered, charging or not charging fees involve altogether different considerations.

8. Finally, the Examiner would like to note that there is no motivation in Golden and/or Mody to create the annuity method with the guarantee and liquidity described by Applicant. While the references disclose some elements of the proposed claimed invention, the modifications to Golden and Mody that would be required to achieve Applicant's method and

system, assuming such missing elements could be located in the prior art, could only be motivated by facts and suggestions deduced from impermissibly referring to Applicant's disclosure in hindsight.

**9. The following is a formal statement of the Examiner's reasons for allowance:**

Claim 17 is allowed because the best prior art of record, Golden, alone or in combination with Mody, neither discloses nor fairly suggests the limitations, in a method, system and computer readable medium, for administering an annuity product having a withdrawal feature and a guarantee, comprising the steps of:

*a) establishing an annuity account having an owner and a unitized account value the investment performance of which accrues to the benefit of the account owner and from which withdrawals can be made;*

*b) inputting data relating to the annuity account, including data relating to at least one of the account owner, the account value, and a specified withdrawal rate for a given withdrawal frequency;*

*c) allowing the account owner to make withdrawals from the annuity account; wherein if the amount of the withdrawal is less than or equal to the specified withdrawal rate there is a guarantee that, even if the entire account value is exhausted before the end of a specified time period, amounts up to the specified withdrawal rate will continue to be paid for at least said specified time period; wherein said specified time period is determined when the account is established to be at least one of a lifetime period, a period of a certain number of months or years, and a period required for cumulative withdrawals to at least equal a specified percentage of one of the account value as of a specified date and a highest account value achieved as of a specified date following establishment of the annuity account; and*

*if the amount of the withdrawal is greater than the specified withdrawal rate, up to and including the entire account value, there is no guarantee that amounts up to the specified withdrawal rate will continue to be paid for that specified time period.*

Claims 18-30 and 32-36 are also allowed for the same reasons discussed supra, in that they are dependent on allowed claim 17.

10. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jocelyn Greimel whose telephone number is (571) 272-3734. The examiner can normally be reached on Monday - Friday 8:30 AM - 4:30 PM EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

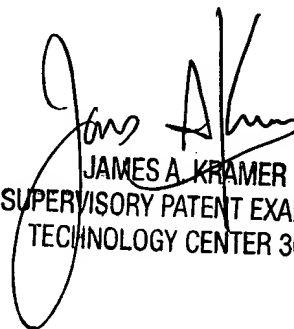


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12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jocelyn Greimel  
Examiner, Art Unit 3693  
November 29, 2007

  
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12.10.07